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Secrt. II-27—100,006—21-5-58.

PUBLIC (MILITARY) (1951) Department.

MS. SERIES.

G.O. No. 5122

Dated 14th October, 1947

[Despatch Abstract.]

REGISTRATION OF FOREIGNERS ACT AND RULES - Persons of dual nationality in possession of foreign passports - Liability of Registration - Instructions from Government of India - Communicated.

GOVERNMENT OF MADRAS.
Abstract

Registration of Foreigners Act and Rules - Persons of dual nationality in possession of foreign passports - Liability of registration - Instructions of Government of India-- Communicated.

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Public (Military) Department.

G.O.Ms.No.3122 Dated 14th October 1947.
Read the following:

G.O.Ms.No.5074, Home, dated 22nd September, 1939.
G.O.Ms.No. 537, Public (Military), dated 20th February, 1948.

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Read again: Letter from the Government of India, Ministry of Home Affairs, No.1/2/47-Poll(E), dated the 14th September, 1947.

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In continuation of the Home Department Endorsement No.1/2/47-Poll(E), dated the 25th January, 1947, I am directed to state that on a careful re-examination of the legal position, the Government of India are of the opinion that the question whether or not the Registration of Foreigners Act, 1939 applies to a person who holds a foreign passport but claims to be a British subject, should be determined in the light of the following considerations:-

(i) The definition of "foreigners" in section 2 of the Act excludes only two categories of British subejcts, namely British Indian subjects and British subjects domiciled in the United Kingdom but other British subjects are governed by the Act except in so far as they may be exempted by rules and notifications thereunder.

(ii) If any person claims to be a British subject of one of the relevant categories, it is necessary to ascertain the facts relevant to the claim. The claim may be properly hold to be untenable only where the facts are not established by the evidence obtained by the Registration Authority from the person concerned or otherwise, and that Authority is bona fide in a state of ignorance regarding them.

(iii) Where from such evidence, the person concerned appears to have been a British subject of the relevant category, he cannot be treated as a "foreigner" within the meaning of the Act unless he has since lost the British nationality, for instance by a declaration of alienage under section 14 of the British Nationality and Statas of Aliens Act, 1914, or in the case of a woman by marriage to an alien and acquisition thereby of a foreign nationality.

2. As regards the particular case of Mr. GHULAM ALI mentioned in the Home Department letter referred to above, since it was recognised by all concerned that he possessed British Indian nationality by virtue of his birth in Poona in addition to his Iranian nationality, he is not ~~liable~~ in the light of the decision contained in para 1 (iii) above, subject to registration under the Registration of Foreigners Act, 1939.

3. The question has also been raised whether or not a woman of foreign nationality who acquires British nationality by virtue of her marriage to a British subject is subject to registration under the Registration of Foreigners Act, 1939. The Government of India are advised that the answer to this question

question

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would depend on whether her hunsabd's domicile - and therefore her own domicile - is in the United Kingdom or British India or elsewhere, If the domicile is in the United Kingdom or British India she is not a foreigner as defined in clause (a) of Section 2 of the Registration of Foreigners Act, 1939, If on the other hand, the domicile is elsewhere, she is a foreigner as so defined and, therefore, subject to registration.

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O R D E R:

Communicated to the Deputy Inspector-General of Police, Railways and C.I.D., Commissioner of Police, Madras, all District Superintendents of Police, and all District Magistrates.

(BY ORDER OF HIS EXCELLENCY THE GOVERNOR)

K. Ramunni Menon,
Chief Secretary to Government.

To the Deputy Inspector Gen-eral of Police, Railways and C.I.D., Madras (with reference to his letter No.232/R.B/47, dated the 15th March, 1947.
To the Commissioner of Police, Madras.
To all District Superintendents of Police.
Copy to all Other Deputy Inspectors General of Police
To all District Magistrates.
To the Home Department.

/TRUE COPY/

R. Thiagarajan 21-1-54

OFFICE ASSISTANT,
Madras Record Office.

RS/27/11

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